THE HON'BLE SRI JUSTICE B.PRAKASH RAO
&
THE HON'BLE SRI JUSTICE G.BHAVANI PRASAD

WRIT APPEAL NO : 845 of 2006
14.08.2006

Between:
K.K.Kumaran s/o K.K.Chekkini, 60 years, Quarter No:F7, B.H.P.V. Township, Visakhapatnam.
..... PETITIONER

AND

1 M/s Bharat Heavy Plates & Vessels Ltd. (A Govt. of India Undertaking) repd. By its Managing Director, Visakhapatnam & another.
.....RESPONDENTs

THE HON'BLE SRI JUSTICE B.PRAKASH RAO
&
THE HON'BLE SRI JUSTICE G.BHAVANI PRASAD

WRIT APPEAL NO : 845 of 2006

ORDER: (Per the Honourable Sri.Justice B.Prakash Rao)

On the earlier occasion, none appeared for the respondents. Today also, when the matter is called twice viz., in the morning and in the evening, none appeared for the respondents.

The appellant is the unsuccessful writ petitioner, who sought for a writ of mandamus seeking to declare the action of the respondents in not promoting him to the post of Grade I Blacksmith from the date of his eligibility as illegal and consequently to direct the respondents to promote him to the category of highly skilled-1, highly

skilled-II and highly skilled-III on par with the juniors of the petitioner viz., P.K.Velayudhan, K.M.Gandharan and V.Appalachary and allow all consequential benefits.

The case of the appellant-writ petitioner in brief is to the effect that he has been working as Blacksmith Grade-II with 1st respondent since April, 1970. He was charge sheeted by the respondent-company on 23.10.1978 on certain allegations and ultimately, dismissed from service in the year 1980. The industrial dispute raised by him in the year 1981 was allowed as per the judgment dated 28.10.1983 holding that such dismissal is not justified and directing the respondents to reinstate him into service with continuity of service and half back wages while imposing the punishment of stoppage of one increment without cumulative effect. On being challenged in W.P.No:8852 of 1984 by the respondent-company, the same was dismissed by this Court on 11.11.1987 and the said order has become final.

The further case of the petitioner is that he is fully qualified to be promoted from the category of Gr.II Blacksmith to Gr.I Blacksmith since he has been in the feeder category. In spite of his representation being made, his case was not considered whereas his juniors have been given all such benefits.

Unfortunately, since there was no representation before the learned single Judge, the writ petition was dismissed mainly on the ground that no such direction positively affecting the promotion can be given.

Having heard the learned counsel for the petitioner and perused the material and having regard to the circumstances pointed out on his behalf, there is no serious dispute since no counter

affidavit is forthcoming either before the learned single Judge or before this Court to deny the fact that the petitioner is eligible for promotion to Gr.I blacksmith.

In the circumstances, We do not find any justification in denying the promotion of the petitioner and especially, when his juniors have been promoted, apparently, it appears that the petitioner is denied all such promotions in view of the dismissal action, which ultimately has been set aside. In the circumstances, We hold that the petitioner is entitled to promotion to the post of Grade I blacksmith.

Accordingly, the writ appeal is allowed directing the respondents to consider the case of the petitioner-appellant for promotion to Grade I blacksmith from the date when his juniors were promoted and provide all other benefits, to which he is entitled.

(B.PRAKASH RAO, J)

14TH AUGUST, 2006.

(G.BHAVANI PRASAD,J)

GURC

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

&

THE HON'BLE SRI JUSTICE G.BHAVANI PRASAD

-
-
-
-
-
-
-
-
-
-
-
-
-
-

WRIT APPEAL NO : 845 of 2006

(Order delivered by the Honourable Sri.Justice B.PRAKASH RAO)

14TH AUGUST, 2006